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Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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| EXAMINER |
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TARAE, CATHERINE MICHELLE

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3688

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/885,970 | Applicant(s) FOGELSON, BRUCE A. | |
| | Examiner C. Michelle Tarae | Art Unit 3688 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Final Office Action in response to the amendments filed October 26, 2010. Claims 1, 4-5, 11-12, 14-30, 32-33, 39-40, 42-45, 50-51, 53, 56 and 58 have been amended. Claims 1-58 are now pending in this application.

Response to Amendment

2. The amendments to claims 1, 4-5, 11-12, 14-30, 32-33, 39-40, 42-45, 50-51, 53, 56 and 58 are acknowledged.

Response to Arguments

3. Applicant's arguments are moot in view of the new grounds of rejections, which have been necessitated by the claim amendments.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "significant" in the amended limitation, "significant number of messages," in claim 1 is a relative term which renders the claim indefinite. The term "significant" is not defined by the claim, the specification does not

Art Unit: 3688

provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lomangino U.S. Pub. No. 2002/0052756 and Gruber et al. U.S. Pub. No. 2002/0073026 (hereinafter, Gruber).

As per claim 1, Lomangino discloses a method for computerized/automated preparation, production, publishing and management of charity or not-for-profit organization ad-books and related print or publishing used by or for recognized not-for-profit organizations, for charity or fund raising, whereby members or supporters of the organization publish or place or manage a message or messages in the organization's

Art Unit: 3688

publication (paragraphs 42-46; Figure 2; Members of an exchange website (e.g., ad-book or related publishing) utilize the website to publish ad messages either donating or requesting money, items or services. See paragraphs 44 and 46, charitable organizations may be recipients of donations.), such method comprising:

a member, supporter or contributor at a user terminal connected to a communications network accessing a preparation tool or computer program within a charity or not-for-profit organization server or communication network (paragraphs 75-77; Figures 12-14; Users may use the interfaces shown in Figures 12-14 to prepare their ad message and either request or offer money, items or services.);

the member, supporter or contributor preparing message in support of the organization using the preparation tool or computer program (paragraphs 67, 75-77; Figures 12-14; Users may use the interfaces shown in Figures 12-13 to prepare their ad message and either request or offer money, items or services.);

receiving a monetary pledge or contribution from the member, supporter or contributor on behalf of the recognized not-for-profit organization (paragraphs 76-77; Figures 12-14; Users may contribute a percentage of their ad fee towards a charity, or the ad message itself may be to donate money, items or services to a charity.); and

processing the message at the server connected to the communications network for placing the message in a charity or not-for-profit ad-book or related print publication where the charity or not-for-profit organization ad-book or related print publication is a fundraising vehicle and the governmentally recognized not-for-profit organizations, members or supporters of the organization solicit for or place the messages to make

Art Unit: 3688

contributions to the organization and wherein a significant number of the messages in the charity ad-book or related print publication contain laudatory statements about the governmentally recognized not-for-profit organization, its activities or its members or its mission or cause (paragraphs 46-48; Figures 2 and 6; Different ad messages are published on the website in different sections based on their category (e.g., donating an item, service or money, or requesting an item, service or money, or a regular ad).).

Lomangino does not expressly disclose, but Gruber does the member, supporter or contributor through the user terminal selecting a level of sponsorship of a plurality of sponsorship levels where a cost associated with each level of the plurality of sponsorship levels is commensurate with various levels of monetary giving from the member, supporter or contributor to the governmentally recognized not-for-profit organizations and receiving a monetary pledge or contribution from the member, supporter or contributor on behalf of the recognized not-for-profit organization based upon the selected sponsorship level (paragraph 41; Figures 2-4, 7-8; Figure 4 illustrates minimum monetary donation amounts per each level.).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify Lomangino to include having different sponsorship levels associated with different levels of monetary giving as doing so acknowledges the donor's level of contribution, which when done publicly may increase donations from others (see Gruber, paragraphs 49-50).

As per claim 2, Lomangino discloses the method of claim 1 wherein preparing further comprises selecting choices relating to the message (Figures 12-14).

As per claim 3, Lomangino discloses the method of claim 2 wherein choices comprises size, placement, color, price, background, font, image or layout (paragraphs 63, 75; The forms allow users to submit written descriptions about their donations including item sizes, color, quantity, and fair market value.).

As per claim 4, Lomangino does not expressly disclose the method of claim 2 wherein choices comprises indicating whether the message shall be printed in a physical charity or not-for-profit organization ad-book or related publication or shall be posted on an on-line charity or not-for-profit organization ad-book posted on an Internet web site as opposed to a physically printed publication or wherein the choice comprises whether the message shall be both printed in a physical charity or not-for-profit organization ad-book or related print publication and also posted on-line on an Internet web site. However, Examiner takes Official Notice that it is old and well known in the advertising art that advertisement messages may be provided in a physical location such as a printed publication or online such as on a website. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Lomangino to have the ads/messages either be placed in a printed publication or online as doing so are common ways of providing advertisements to users, thereby providing options to how the advertisements are exposed to viewers. Further, it would have been obvious to a person of ordinary skill in the art to place the advertisements either in a printed publication or online there are a finite number of ways to provide advertisements to users (e.g., either physically or electronically on a website), and one could have

Art Unit: 3688

pursued the known, potential solutions with a reasonable expectation of success and expected results.

As per claim 5, Lomangino discloses the method of claim 1 wherein preparing further comprises selecting a type or theme of message to reduce the number of choices that a user must make to produce a message (paragraphs 46-48; Figures 2 and 13; Different ad messages are published on the website in different sections based on their category (e.g., donating an item, service or money, or requesting an item, service or money, or a regular ad).).

As per claim 6, while Lomangino discloses a packet data network such as the Internet (Figure 1), Lomangino does not expressly disclose the method of claim 1 wherein the communications network comprises a public switch telephone network. However, Examiner takes Official Notice that it is old and well known in the communications art to utilize a public switch telephone network to transmit ads. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Lomangino to have its network include a public switch telephone network as doing so offers more ways through which ads may be transmitted to users.

As per claim 7, Lomangino discloses the method of claim 1 wherein the user terminal comprises a computer system (paragraph 49; Figure 1).

As per claim 8, Lomangino discloses the method of claim 7 wherein the computer system comprises one of a personal computer, a notebook computer, a personal digital assistant (PDA), a cellular telephone or a mobile/wireless assistant (paragraph 49; Figure 1).

As per claim 9, Lomangino discloses the method of claim 1 wherein the server comprises a web server computer system for accessing the communications network (paragraph 49; Figure 1).

As per claims 10-11, Lomangino does not expressly disclose the method of claim 9 wherein the web server comprises a firewall for maintaining security; or wherein the firewall limits access to information on the server wherein information comprises the message and the charity or not-for-profit organization ad-books. However, Examiner takes Official Notice that it is old and well known in the Internet security art to control access to certain data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Lomangino to include a firewall as doing so maintains the integrity of the data, and in turn, the integrity of the advertising messages and donations to charities.

As per claim 12, Lomangino discloses the method of claim 1 wherein preparing further comprises using computer software running at the user terminal to create a message (paragraph 49).

As per claim 13, Lomangino does not expressly disclose the method of claim 12 wherein the computer software comprises at least one of Microsoft Office, Corel PageMaker and Adobe PhotoShop. However, Examiner takes Official Notice that Microsoft Office, Corel PageMaker and Adobe PhotoShop are old and well known publication editing tools. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Lomangino to utilize such software as the software is well known by users, thereby making such preparing and editing functions

Art Unit: 3688

easy for users to do as they are most likely familiar with one of the software applications.

As per claim 14, Lomangino discloses the method of claim 1 wherein processing further comprises receiving payment information by the server for processing the message for placement in a charity or not-for-profit organization ad-book (paragraph 76).

As per claim 15, Lomangino discloses the method of claim 1 wherein processing further comprises:

receiving the messages at the server from the user terminal (paragraph 49);

storing the messages at the server (paragraph 42); and

converting the received message into a message to be placed into a charity or not-for-profit organization ad-book or related print or publication (paragraph 54).

As per claim 16, Lomangino discloses the method of claim 15 further comprising receiving payment information by the server for processing the message for placement in a charity or not-for-profit organization ad-book or related print or publication (paragraph 76).

As per claim 17, Lomangino discloses the method of claim 15 further comprising classifying the received message into a charity or not-for-profit organization ad-book or related print or publication category said classification based upon amount contributed to the recognized not-for-profit organization or by color of a page to be printed selected from the group consisting of gold, silver and white or by a size of the message selected from the group consisting of full-page, one-half page, one-quarter page, business card

Art Unit: 3688

size and simple listing of name or contact information (paragraphs 63, 73, 77; Figure 9, item 100 in Figure 13; The ads/messages may be categorized according to the “thing” being donated such as item, service or money. Subcategories further classify the ads/messages.).

As per claim 18, Lomangino discloses the method of claim 15 further comprising using techniques, the techniques comprising statistics and demographics, to discern at least one group of related ads or messages said discernment based upon amount contributed to the recognized not-for-profit organization or by color of a page to be printed selected from the group consisting of gold, silver and white or by a size of the message selected from the group consisting of full-page, one-half page, one-quarter page, business card size and simple listing of name or contact information (paragraphs 45-46, 71, 86; Ads may be identified by the amount contributed to a particular charity.).

As per claim 19, Lomangino discloses the method of claim 15 further comprising using statistics and demographics, to discern at least one group of related organizations, members or supporters which place messages in charity or not-for-profit organization ad-books or related print or publications (paragraphs 46-47; The different groups/types of charities are discussed.).

As per claim 20, Lomangino discloses the method of claim 15 further comprising using statistics and demographics, to discern at least one group of related charity or not-for-profit organization ad-books (Figures 13-14; The website may have different sections for its ads/messages based on the different groups of business, charity, anyone and further a philanthropic section.).

As per claim 21, Lomangino discloses the method of claim 15 further comprising converting the received message into an HTML format to be shown on at least one user terminal (Figure 2).

As per claim 22, Lomangino discloses the method of claim 21 wherein the HTML message is a part of an electronic presentation of charitable support (Figure 2).

As per claim 23, while Lomangino discloses sending an email to users confirming their donation (paragraphs 63, 76), Lomangino does not expressly disclose the method of claim 21 further comprising sending a copy of the HTML message to a member or supporter whom initiated the message preparation. However, Examiner takes Official Notice that it is old and well known in website publishing to send or show a copy of the final HTML page/ad to ensure that it is correct. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Lomangino to send a copy of the HTML ad/message to the user who initiated the ad/message preparation as doing so give the user the opportunity to review the data and ensure its correctness, thereby enhancing the quality assurance of the system.

As per claim 24, Lomangino discloses the method of claim 1 further comprising registering with the server whereby a member or supporter at the user terminal connects to the server and enters information relating to the member or supporter (paragraphs 49, 52).

As per claim 25, Lomangino discloses the method of claim 1 further comprising entering a mode of payment at the user terminal to pay for the message to be placed in

Art Unit: 3688

the charity or not-for-profit organization ad-book or related print or publication (paragraphs 46, 65, 76).

As per claim 26, Lomangino discloses the method of claim 1 further comprising sending an acknowledgement to a member and/or supporter who places a message in a charity or not-for-profit organization ad-book or related print or publication notifying the member or supporter of the receipt of the message (paragraphs 63, 65, 76; A user may receive a confirmation email for their ad/message submission.).

As per claim 27, Lomangino discloses the method of claim 1 further comprising sending an acknowledgement to a member or supporter who places a message in a charity or not-for-profit organization ad-book or related print or publication notifying the member or supporter of payment information (paragraphs 65, 76).

Claims 28-56 and 58 recite substantially similar subject matter to claims 1-27 as discussed above. Therefore, claims 28-56 and 58 are rejected on the same basis as claims 1-27 as discussed above.

As per claim 58, while Lomangino discloses storing data (paragraph 42), Lomangino does not expressly disclose utilizing a database to do so. However, Examiner takes Official Notice that it is old and well known in the website industry to utilize databases to store data, especially when transactions are involved as doing helps to keep track of the transactions. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Lomangino to utilize a database

Art Unit: 3688

to store data such as ads/messages, ad-books, organizations, members and supports as doing so allows the system of Lomangino to keep track of the donations (e.g., transactions) between the different members of the system.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Klasky et al. U.S. Pub. No. 2002/0038225 discusses facilitating online donations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. Michelle Tarae/
Primary Examiner, Art Unit 3688

December 28, 2010